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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/883,424

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John Chaco

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25267

7590

08/27/2004

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EXAMINER

EDWARDS JR, TIMOTHY

ART UNIT

PAPER NUMBER

2635

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/883,424

Applicant(s)

CHACO ET AL.

Examiner

Timothy Edwards, Jr.

Art Unit

2635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 31-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 44-46, 51 and 52 is/are allowed.
- 6) ☒ Claim(s) 31-43, 47 and 48 is/are rejected.
- 7) ☒ Claim(s) 49 and 50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

Examiner withdraws office action dated November 7, 2002 in lieu of applicant's Preliminary Amendment filed November 13, 2002.

#### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 31-35, are rejected under the judicially created doctrine of double patenting over claims 1-19 of U. S. Patent No. 5,689,229 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: a switching means actuated by a processor to verify the continuity of the conductors connected between two devices.

Claims 36 and 37, are rejected under the judicially created doctrine of double patenting over claims 21 and 26 (respectively) of U. S. Patent No. 5,594,786 since the

claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: a controller coupled to the receiver and an environmental facilities, the controller controlling the environmental facilities in response to control data, and a nurse station located outside of a room, coupled to a receiver for receiving control data to monitor the environmental facilities. With respect to claim 37, (claim 26 of the cited patent discloses) the nurse control station activating the transmitter to transmit the control data.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 38,39,41,42, are rejected under 35 U.S.C. 102(e) as being anticipated by Novak et al '412.

Art Unit: 2635

Considering claim 38, Novak discloses a patient/nurse call system comprising, a) a private branch exchange (see col 4, lines 26-40); b) a plurality of remote stations linked to a central station (see fig 2); c) each remote station having a processor for facilitating communication relating to patient care with the central station (see fig 11B); d) a telephone circuitry (see fig 11B, item 114); e) a sensor for sensing signals from a portable transmitter units (see col 11, line 66 to col 12, line 6); f) the central station facilitates communication among the remote stations (see col 7, lines 26-59 and col 8, lines 27-42).

Considering claim 39, Novak discloses a) a plurality of remote stations positioned at various location throughout a facility (see fig 2); b) a plurality of zone controllers (see col 8, lines 27-42 and fig 2, item 70); c) the central station facilitates communication among the remote stations (see col 7, lines 26-59 and col 8, lines 27-42); d) establishing communication links between a central station and the remote station through the zone controllers (see col 8, lines 35-42, col 10, lines 6-15, and see fig 3); e) the communication link being operated in a master-slave relationship (see col 8, lines 43-65).

Considering claim 41, Novak discloses the limitation of this claim (see col 16, lines 34-45).

Considering claim 42, Novak discloses the limitation of this claim (see col 16, lines 46-54).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 40,43,47,48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novak et al '412.

Considering claim 40, Novak does not specifically recite the zone controller (i.e. room I/O board) as master station. However, fig 11A shows a component make-up of I/O board, one of ordinary skill in the art would readily recognize the I/O board of the Novak system could be modified, without any undue experimentation, to perform many function because it has a micro-controller (i.e. a microcomputer). The I/O board of the Novak system is used to interface with a plurality of patient stations and it controls the transmitting and receiving of data between the patient stations and the PBX system. Novak suggests the modification of his system by programmable adding or removing addition features to suit the needs of the particular hospital wings in which it is used (see col 18, lines 1-4). Therefore, it would have been obvious to one of ordinary skill in

the art to modify the I/O device of the Novak system because of the reasons set forth above.

Considering claim 43, Novak does not specifically recite a message frame to the master station includes five fields. One of ordinary skill in the art would readily recognize the sending of data could be accomplished by sending any number of data fields that it takes to convey all the information that is required by the receiver or system. Therefore, it would have been obvious to one of ordinary skill in art to modify the message frame of the Novak system because of the reason set forth above.

Considering claim 47, Novak discloses a) a plurality of remote station positioned at various location and each having a processor and a memory (see col 9, line 57 to col 10, line 5 and fig 11A); b) central station interconnecting the remote stations (see fig 3); c) a plurality of patient control units, each connected to a respective remote station (see col 8, lines 27-42, col 11, lines 38-62); d) a remote station generating a nurse call message (see col 9, lines 7-26); e) except Novak does not specifically recite storing the generated message in memory of the remote station. Novak discloses in col 8, line 66 to col 9, line 26 Novak discloses the activation of high priority alarm messages, which are interfaced through the I/O boards to a central station. Novak suggests in col 18, lines 1-4 his system can be programmable controlled to add or remove additional features to suit the needs of the hospital wing. Novak suggests in col 33, lines 11-20 the modification of his system with respect to storage and retrieval of calls. Therefore, it

would have been obvious to one of ordinary skill in the art to modify the I/O interface of the Novak system to store all generated nurse calls because this is suggested by Novak.

Considering claim 48, Novak discloses the limitations of this claim (see col 10, lines 1-4).

***Allowable Subject Matter***

Claims 44-46,51 and 52 are allowed.

Claims 49,50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Welch et al '363, and Gallant et al '223 both cited references are concern with hospital communication.



1. Any inquiry concerning this communication should be directed to Examiner Timothy Edwards at telephone number (703) 305-4896. The examiner can normally be reached on Monday-Thursday, 8:30 a.m.-4:00 p.m. The examiner cannot be reached on Fridays.

If attempt to reach the examinee by telephone are unsuccessful, the examiner's supervisor, Michael Horabik, can be reached on (703) 305-4704.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700, Mon-Fri., 8:30 a.m.-5:00 p.m.

Any response to this action should be mailed to:

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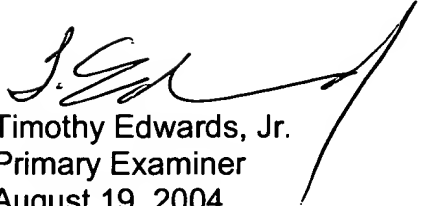
or fax to:

(703), 872-9314 (for formal communications intended for entry)

Or:

(for informal or draft communications, please label "PROPOSED"  
or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121  
Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).



Timothy Edwards, Jr.  
Primary Examiner  
August 19, 2004